

RISK ASSESSMENT WORK GROUP

The Risk Assessment Workgroup makes the following recommendations:

- 1) The regulation should differentiate between releases to the environment and releases to some sort of containment or indoor area. This should take into consideration that some indoor releases can pose a greater risk to human health than releases to the environment. This concern is expected to be covered by language currently in the 1994 Draft which considers releases "...which pose an emergency, a fire hazard, or a hazard to life, safety, property or the environment."**

2) The format of the regulation should be a default reportable quantity which would apply to most situations and substances (avoiding long lists of chemicals and quantities) and then include two categories of exceptions, one for extremely hazardous substances or **sensitive locations** (such as aquifer protection areas) and one for significantly less hazardous substances or locations (such as containment areas).

***Needs to be defined.**

3) One exception which should be included on the less hazardous side is petroleum products (excluding underground storage tanks which are separately regulated). This would include the same items identified in the exception in the 1994 Draft: petroleum, used oil (the 1994 version identified this as waste oil, but that is a conflict with other regulations), and heat transfer/dielectric fluid. The reportable quantity would be 10 gallons, instead of whatever default reporting quantity is ultimately included, provided that the release is contained within 2 hours and cleaned up in 48 hours; the release is not subject to 40 CFR 112 or in a watershed, aquifer protection area, or waterway; the release does not pose an emergency, a fire hazard, or a hazard to life, safety, property or the environment; and the release contains no polychlorinated biphenyls.

Two versions of recommendation #4 are offered:

4) Another recommendation is to have an exception for releases related to motor vehicle accidents involving only passenger vehicles.

Or, in lieu of the above, insert exemption language from the MCP as follows:

- 4) The exemptions in the following list should be reviewed and considered for Connecticut:
- Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into the **environment**, **but excludes**:
- (a) emissions from the exhaust of an engine;
 - (b) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in 42 U.S.C. Section 2014, if such release is subject to requirements with respect to financial protection established by the United States Nuclear Regulatory Commission under 42 U.S.C. Section 2210;
 - (c) releases of radionuclides regulated by United States Environmental Protection Agency under 42 USC Section 9602, 33 USC Sections 1321 and 1361, and 40 CFR Part 302 et seq.;
 - (d) releases subject to the reporting requirements of the State of Connecticut Statute Chapter 146 Section 22a-135(a)(3);
 - (e) the normal application of fertilizer;
 - (f) the application of pesticides in a manner consistent with their labeling; and
 - (g) the land application of sludge and septage residuals;
 - (h) ubiquitous and consistently present in the environment at and in the vicinity of the disposal/release site of concern; and attributable to geologic or ecological conditions, or atmospheric deposition of industrial process;
 - (i) attributable to coal ash or wood ash associated with fill material;
 - (j) releases to groundwater from a public water supply system; or
 - (k) petroleum residues that are incidental to the normal operation of motor vehicles.
- releases of oil that occur during normal handling and transfer operations at an oil facility, if the releases are completely captured by a properly functioning oil/water separator; provided, however, that releases of oil which exceed the capacity of the oil/water separator, and that releases of oil from the oil/water separator, itself, in excess of its discharge permit limits, shall not be exempt from notification requirements;
- (l) releases or threats of release of gasoline or diesel fuel that result from the rupture of the fuel tank of a *passenger* vehicle as a result of an accident involving that vehicle;
 - (l) releases of oil and/or hazardous material that are discharged or emitted from an outfall, stack or other point source, or as fugitive emissions, any of which are regulated under and have received a valid permit, license, or approval, or which are operating under a valid registration, order or guideline issued under a federal or state statute or regulation, unless the release:
 - a. exceeds the amount allowed by the permit, license, approval, registration, order or guideline; and
 - b. represents an Imminent Hazard to health, safety, public welfare or the environment.

This provision shall not relieve any person from any other duty to notify which may exist under any other statute or regulation, nor shall it in any way limit the authority of any other agency, political subdivision or authority of the federal or state government or of any office or division of the Department to enforce or otherwise carry out the duties assigned to it by law;

(m) releases of forbidden, Class A or Class B explosives, as defined in 49 CFR Section 173.50, 173.53 and 173.88 respectively, if the explosives are in military transport or supervision and the U.S. Army Explosive Ordnance responds to the release;

(n) releases of methane, propane, and other component compounds associated with a release of natural gas, natural gas liquids and liquified natural gas;

(o) sheens:

- a. resulting from emissions or discharges from outboard motors in recreational use; or
- b. associated with normal surface water runoff from roadways, driveways, and parking lots;

(p) releases of hazardous material indicated by residues in the environment:

- a. emanating from a point of original application of lead-based paint;
- b. resulting from emissions from the exhaust of an engine; or
- c. resulting from the application of pesticides in a manner consistent with their labelling;

(q) releases of oil and/or hazardous material related to coal, coal ash, or wood ash, excluding wood ash resulting from the combustion of lumber or wood products that have been treated with chemical preservatives;

(r) releases of oil and/or hazardous material resulting from the land application, reuse, or disposal of wastewater residuals and/or dredged spoils conducted in accordance with an approval, permit or certification issued by the CTDEP;

(s) releases of oil and/or hazardous material in groundwater detected by sampling conducted by Public Water Supply owners or operators as indicated by the presence of oil and/or hazardous material in a public water supply source;

(t) releases of oil and/or hazardous material resulting or emanating from:

- a. the asphalt binder in bituminous pavement;
- b. piers, pilings and building foundation structures;
- c. landscaping timbers in use;
- d. utility poles in use; or
- e. building materials that are in good repair and still serving their original intended use;

5) The default reporting quantity should be 10 pounds unless the release is subject to 40 CFR 302.4, 40 CFR 355 or it falls into one of the exceptions.

Written Report

Any spill that requires verbal notification should also require a written report. The report should be mandated within 72 hours of the incident. If the incident is ongoing, it should be marked as an initial report with the final closure report to follow upon incident completion. If the incident has been contained and cleaned, it should be marked as the closure/final report. The DEP should have a section on that report form that they in turn complete and supply back to the company as a closure within a specified time frame.

Clear and precise rules must be provided so a company/individual, in the form of the new regulations so a company can determine the need for reporting. The company and or individual must make out a written report, on a supplied report form specifically designed for non-reportable incidents, and keep that report on file. (Time line must be determined if required). In this respect, no action can be taken against that company/individual if or when an investigator decides that it should have been a reportable incident. The company could then place that report in its SPCC program within a section designed for such.